

REMARKS**BEST AVAILABLE COPY**

Claims 1-8 and 34-43 are still pending in this application. Reconsideration of the application is earnestly requested.

The Examiner has rejected claims 1-8 and 34-43 under 35 USC §102(e) as being anticipated by *Davis et al. (Davis)*. Although the Examiner's arguments have been carefully considered, Applicant respectfully traverses these rejections as explained below.

The Present Invention

As pointed out in the background of the present application at page 3, a consumer with a smart card may purchase goods over the Internet as described in *Davis*. In other words, the *Davis* reference is specifically pointed out in the background of the present application is being prior art over which the present invention is believed patentable. As discussed at pages 3 and 4, the technique of *Davis* and of other prior art relies not only upon a physical smart card, but also upon a physical smart card reader.

Because there is no guarantee that physical smart cards and card readers will be available in mass quantities, the background concludes that there is a need to perform transactions over the Internet without using a physical smart card or a physical smart card reader. The present invention as claimed meets this need by providing a server for performing a transaction over a network without the need for either a physical smart card or a physical smart card reader.

The Cited Art Distinguished

Davis clearly shows a physical smart card and a physical smart card reader, for example, as shown in Figures 4 and 16. By contrast, claim 1 requires not only "a smart card emulator," but also "a pseudo card reader module" that are neither a physical card nor a physical card reader. Support for this assertion is found at various places in the present specification. For example, Figure 3 of the present invention is introduced at page 16 of the present specification by stating "System 250 dispenses with the need for card reader 210 and smart card 5."

Further, page 17, second full paragraph, provides "server 260 emulates the physical smart card through the use of pseudo card reader module 264, smart card emulator 266, hardware

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security module 268 and card database 270." Thus, no physical smart card is used. The second and third full paragraphs at page 20 make clear that the smart card emulator is a software module and not a physical smart card. Because *Davis* teaches that a physical smart card is used, not only is a smart card emulator not disclosed, *Davis* practically teaches away from the presently claimed invention.

The Office Action alleges that a smart card emulator is disclosed in column 7, but this section clearly discusses the cardholder inserting a physical card into a physical card reader. The Action also cites column 8, but this section only discusses a security card, which is also a physical card. Column 10 also refers to a physical smart card. Finally, the reference to column 11 also clearly describes a security card as being a physical card in which a microchip is embedded. Column 11, lines 1-14 does disclose that "the functionality of stored value card 5 may be implemented in software on client terminal 204, that is, card 5 may be a 'virtual' card." But, this brief sentence falls short of providing an enabling description of a virtual card and may not be relied upon for anticipation.

For all these reasons, it is respectfully submitted that *Davis* does not disclose "a smart card emulator" as required by claim 1, and it is requested that the rejection be withdrawn.

Further, claim 1 specifically requires "a pseudo card reader module that receives said smart card commands over said network and relays said commands to said smart card emulator." As described in the specification at page 19, final paragraph, a pseudo card reader module "is a software module that performs the functionality of a physical card reader so that emulation of a smart card is transparent to client code module 224." Thus, the claimed pseudo card reader module is software whereas *Davis* only discloses a physical card reader.

The Office Action alleges that a pseudo card reader module is shown at column 7, but this section clearly discloses a physical card reader into which a physical card is inserted. Further, the citation to column 8 only discloses a physical security card. The citation to column 10 only discloses physical stored value cards and security cards that can only be inserted into a physical card reader. The final citation to column 11 likewise only discloses a physical security card.

For all these reasons, it is respectfully submitted that *Davis* does not disclose "a pseudo card reader module" as required by claim 1, and it is requested that the rejection be withdrawn.

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Claim 1 further requires "a virtual smart card database" where each record includes a virtual card identifier and a balance that corresponds to a single virtual smart card. An example of such a virtual smart card database is shown in Figure 4. The Office Action relies upon a citation to column 10, but this section only discloses a payment server that manages the database 223. Database 223 is a transaction database (see column 14, line 9) that stores transaction records; it is not a database that includes records where each record corresponds to a virtual smart card having a balance. The citation to column 11 only discloses a processor card (another name for a smart card) that has a number of functions; this section does not disclose a virtual smart card database. The citation to column 13 discloses a payment module that logs results; this is not a virtual smart card database. The citation to column 16 refers to data from a smart card and a draw or request which is a software message; neither of these sections disclose a virtual smart card database.

For all these reasons, it is respectfully submitted that *Davis* does not disclose "a virtual smart card database" as required by claim 1, and it is requested that the rejection be withdrawn.

Claim 41 includes the same limitations as described above with respect to claim 1 and is believed patentable for the same reasons.

Reconsideration of this application and issuance of a Notice of Allowance at an early date are respectfully requested. If the Examiner believes a telephone conference would in any way expedite prosecution, please do not hesitate to telephone the undersigned at (612) 252-3330.

Respectfully submitted,
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